

Honorable Judge Mary Jo Heston
Chapter 13
Hearing Location: Tacoma
Hearing Date: July 30, 2019
Hearing Time: 1:00 p.m.

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

In re:

Frank Deland Cobb aka Franklin Deland Cobb
Gaysha Sandy Cobb aka Gaysha Spears,

Debtors.

CASE NO.: 19-41717-MJH

CHAPTER 13

**OBJECTION TO CONFIRMATION
BY JPMORGAN CHASE BANK,
NATIONAL ASSOCIATION**

JPMorgan Chase Bank, National Association (“Creditor”), objects to confirmation of the proposed chapter 13 plan (The “Plan”) of Frank Deland Cobb and Gaysha Sandy Cobb (“Debtors” herein). The basis for this objection is that the Plan does not comply with the provisions of Title 11, chapter 13 of the United States Bankruptcy Code and thus should not be confirmed by the Court.

I. BACKGROUND

On or about September 20, 2001, Frank D. Cobb executed and delivered a note in favor of Washington Mutual Bank in the original principal amount of \$50,000.00. This Note was secured by a Deed of Trust (“Deed”) encumbering real property commonly described as 3917 29th Ave Ct E, Tacoma, WA 98404 (“Property”). Creditor is the holder of the note or services the note for the holder.

On May 25, 2019, Debtors filed for protection under Title 11, chapter 13 of the United States Code under cause number 19-41717-MJH in the above listed court.

The outstanding balance due on the Note as of filing is approximately \$46,637.97. As of the same date the loan is contractually due for the January 15, 2016 payment.

1 The pre-petition arrears, including payments, late charges, escrow advances and accrued
2 fees and costs are approximately \$6,891.26 as will be detailed in Creditor's filed proof of claim.
3 The monthly payment due as of June 15, 2019 is \$178.73.

4 5 **II. ARGUMENT AND AUTHORITY**

6 Under 11 U.S.C. § 1325 (a)(1) and 1322 (b)(2) a plan may not modify the rights of a
7 holder of a claim secured only by an interest in real property that is the Debtor's personal
8 residence. In the case at bar, the Debtor has scheduled payment of all remaining attorney fees
9 ahead of all creditors. By this, the Debtor has proposed to deny Creditor a monthly maintenance
10 payment for approximately the first five to six months of the chapter 13 plan. The plan thus
11 creates a default rather than cure the default initially while also modifying Creditor's right to a
12 regular maintenance payment. The Creditor has no objection to payment of the attorney fees, but
13 that payment should be concurrent with at least the regular monthly maintenance payment on the
14 Property.

15 16 **III. CONCLUSION**

17 For the reasons listed above, the chapter 13 plan as proposed fails to comply with the
18 requirements of United States Code Title 11. Therefore, Creditor respectfully requests the Court
19 deny confirmation of the proposed Chapter 13 plan. If the court sustains this objection and
20 denies confirmation, Creditor respectfully requests that the Court set a deadline by which an
21 amended plan is to be filed. Creditor further requests that if the Debtor does not file the
22 Amended Plan by the date imposed by the Court, that the Trustee be permitted to submit an order
23 dismissing the bankruptcy case for failure to comply with the order of the court.

24 Dated: July 19, 2019

McCarthy & Holthus, LLP

25 /s/ Lance E. Olsen

Lance E. Olsen, Esq. WSBA# 25130

Michael S. Scott WSBA# 28501

Attorneys for Movant

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CERTIFICATE OF SERVICE

On 7/19/2019, I served the foregoing **OBJECTION TO CONFIRMATION** on the following individuals by electronic means through the Court's ECF program:

TRUSTEE

Michael G. Malaier

ecfcomputer@chapter13tacoma.org

DEBTORS' COUNSEL

Ellen Ann Brown

stopdebt@gmail.com

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Salvador Arroyo

Salvador Arroyo

On 7/19/2019, I served the foregoing **OBJECTION TO CONFIRMATION** on the following individuals by depositing true copies thereof in the United States mail, enclosed in a sealed envelope, with postage paid, addressed as follows:

DEBTORS

Frank Deland Cobb, 3917 29th Ave Ct E, Tacoma, WA 98404

Gaysha Sandy Cobb, 3917 29th Ave Ct E, Tacoma, WA 98404

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Hue Banh

Hue Banh